



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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JUDGE'S TENTATIVE RULING GRANTS CITY ATTORNEY AUTHORITY TO ARGUE PENSION CASE ORAL ARGUMENTS ON LEGALITY OF PENSION BENEFITS APPROVED IN 1996 AND 2002 SCHEDULED FOR MONDAY

San Diego, CA: Superior Court Judge Jeffrey B. Barton today issued a tentative ruling in a landmark case that will ultimately determine the legality of certain City of San Diego employee pension benefits. In one element of the San Diego City Employees' Retirement System (SDCERS) lawsuit against the City, the Judge ruled that City Attorney Michael Aguirre has the authority to argue the case on behalf of the City of San Diego.

The Judge also invited oral arguments scheduled for 9 a.m. Monday on the City Attorney's motion to immediately void pension benefits that were approved by the City Council in 1996 and 2002 in exchange for under funding the employee pension system. Should the Court rule in favor of the City Attorney's motion for summary judgment, there would be no need for a trial.

"The citizens of San Diego now have real hope that the financial crisis imposed upon the City of San Diego through runaway illegal pension debt in the hundreds of millions of dollars may be reversed," said City Attorney Michael Aguirre.

The lawsuit, *SDCERS v. City of San Diego*, was originally filed by attorneys for the Pension Board in January 2005. On March 16, 2006, the City Attorney's Office filed a motion for summary judgment asking the Court to review compelling evidence that certain pension benefits, granted by City officials between 1996 and 2002, violate California's conflict-of-interest and liability limit laws and should be set aside.

The motion for summary judgment was based on violations of Government Code section 1090, California's conflict of interest law; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance. The motion requested the Court to:

- A. Rescind new pension benefits that were granted under the 1996 Manager's Proposal I, which include an increase in the retirement factor used to determine retirement benefits; purchase of service credits up to five years which were purchased below market value; and the Deferred Retirement Option Plan (DROP) that allowed a member to "retire" from the City and begin earning his or her retirement benefits while remaining employed by the City.

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- B. Rescind new pension benefits that were granted under the 2002 Manager's Proposal II, which increased pension benefits without a funding source; and created the so-called "Presidential Benefit" whereby Presidents of the City's four recognized labor unions could have their Union Presidents earnings counted as though they were City salaries for the purposes of retirement.

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